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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

ROBERTO DUARTE,

Defendant and Appellant.

B293218

(Los Angeles County
Super. Ct. No. MA064491)

APPEAL from an order of the Superior Court for Los Angeles County, Christopher G. Estes, Judge. Affirmed.

Stephen Borgo, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Respondent.

Defendant Roberto Duarte was convicted of felony possession of contraband in jail, in violation of Penal Code¹ section 4573.6, subdivision (a). He appeals from an order denying his post-judgment petition seeking recall of his sentence and reduction of his felony conviction to a misdemeanor under section 1170.18, enacted as part of Proposition 47. The trial court denied the petition without a hearing, finding that defendant is not eligible for relief under Proposition 47.

After review of the record, defendant's court-appointed appellate counsel filed an opening brief asking this court to review the record independently under the holding of *People v. Wende* (1979) 25 Cal.3d 436. On December 24, 2018, we advised defendant that he had 30 days within which to submit any contentions or issues he wished us to consider. We have not received any response to date.

We have examined the entire record and are satisfied that no arguable issues exist. The only issue raised in defendant's post-judgment petition is resentencing under Proposition 47. However, defendant's underlying conviction was for a felony violation of section 4573.6, subdivision (a), which is not an offense for which reduction to a misdemeanor is allowed under Proposition 47. Thus, the trial court properly denied defendant's post-judgment petition.

¹ Further undesignated statutory references are to the Penal Code.

DISPOSITION

The order denying defendant's post-judgment petition is affirmed.

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WILLHITE, J.

We concur:

MANELLA, P. J.

CURREY, J.